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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/601,619

06/23/2003

Napier Fulton Breen JR.

9158-2IP

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09/13/2006

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EXAMINER

ZURITA, JAMES H

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,619

Applicant(s)

BREEN ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 27-38, 53-64 and 80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 27-38, 53-64 and 80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>24 June 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History

On 23 June 2003, applicant filed the instant application. See Priority.

On 15 April 2004, the application was published as PG-PUB 20040073498 A1.

On 8 June 2006, the Examiner issued an Election/Restriction Requirement.

On 10 July 2006, applicant responded to the requirement.

Response to Amendment

Applicant's submission of 10 July 2006 has been entered.

Applicant cancelled claims 13-26, 39-52 and 65-78 and added claims 79-80.

Applicant's election with traverse of claims 1-12 and 56-57 in the reply filed on 10 July 2006 is acknowledged. The traverse is on the grounds that:

... given the almost word-for-word correspondence between the claims of Inventions I and V, the "system" suggested in the Action is not materially different from the computer program products of Invention V. Moreover, given the almost word-for-word correspondence between the claims of Inventions I and V, and the fact that it is already necessary for the examiner to perform a search directed to the system claims of Invention III (for the reasons discussed above), which encompass computer program products, there will be no additional burden on the examiner to perform a search directed to the claims of each of Inventions I, III and V.

In view of applicant's arguments, Invention I (method claims 1-12 and 80), Invention III (system claims 27-38) and Invention V (computer program claims 53-64) will be examined together. Inventions I, III and V are treated as obvious over each other. The requirement is deemed proper and is made FINAL.

Claims 1-12, 27-38, 53-64 and 79-80 are pending and will be examined.

Please note that the preamble of claim 1, the terms "...wherein the computer network comprises a Web site of a seller and a plurality of Web clients in

communication with the Web site, and wherein buyers communicate with the Web site via respective Web clients..." is treated as background.

Priority

Applicant claims to priority as a continuation-in-part of 09/440778, filed 16 November 1999, issued on 22 July 2003 as 6,598,027.

On 23 June 2003, applicant added new matter in several embodiments, including Figs. 20-22 and related description, including paragraphs 0152-0169, pages 13-14 of PUB 20040073498 A1. Priority date for the new matter is 23 June 2003.

Applicant elected to prosecute the embodiment found in Figs. 20 and 21, paragraphs 0152-0165. Please note that new claims 79 and 80 are drawn to matter found in the non-elected second embodiment, Inventions II, IV and VI, which refer to auctions and are separately described in paragraphs 0166-0169 and relate to Fig. 22.

Claim Objections

The following are objected to because of informalities:

The following appear to be word processing errors:

Claim 12, lacks antecedent basis for the limitation ***...initiating delivery...*** that first appears in claim 3. The error appears in each group of claims.

- Claim 12 should be amended to depend from claim 3.
- Claim 38 should be amended to depend from claim 29.
- Claim 64 should be amended to depend from claim 55.

Claim 56 should be amended to properly depend on claim 53.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 79 and 80 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no written description for a single embodiment that includes limitations of claim 80 (with limitations of claim 1) and parallel claim 79 (with limitations of claim 27). Claims 79 and 80 contain materials from unelected Inventions II, IV and VI, which referred to auctions and are separately described in paragraphs 0166-0169 and relate to Fig. 22.

Claims 79 and 80 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 79 and 80 refer to auctions, described in relation to Fig. 22. Parent Claims 1 and 27 refer to sales and is described in relation to Fig. 21. There is no description of these two species in one embodiment as claimed in claim 80.

Claim Rejections - 35 USC § 102 and 103

The claims are rejected as follows:

claims	35USC	references
1-3, 6, 7, 9, 10, 12, 27-29, 32, 33, 35, 36, 38, 53-55, 58, 59, 61, 62 and 64	102(a)	PlanetRx and Soma
4, 5, 30, 31, 56 and 57	103(a)	PlanetRx and Soma in view of Official Notice
8, 34 and 60	103(a)	PlanetRx and Soma and further in view Edmonson
11, 37, 63, 79 and 80	103(a)	PlanetRx and Soma and further in view of Breen

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 6, 7, 9, 10, 12, 27-29, 32, 33, 35, 36, 38, 53-55, 58, 59, 61, 62 and 64 are rejected under 35 U.S.C. 102(a) as being anticipated by internet pharmacies, as evidenced by [a] **PlanetRx**: next big cyber success story? // E-TRADE: A upstart wants to replace your corner drugstore, er, superstore.; [MORNING Edition] *DAWN C. CHMIELEWSKI*, Orange County Register, Santa Ana, Calif.: Mar 18, 1999. 3 pages, downloaded from the Internet on 11 September 2006 and [b] **Soma.com** Calls for Crackdown on Unethical Internet Pharmacies, *Business Editors, Internet/On-Line Writers*. Business Wire. New York: Mar 30, 1999. 3 pages. Both documents were downloaded from ProQuest on the Internet on 11 September 2006.

As per claim 1, PlanetRx and Soma disclose method(s) of selling regulated goods (pharmaceutical drugs and medications) over a computer network, wherein the

computer network comprises a Web site of a seller and a plurality of Web clients in communication with the Web site, and wherein buyers communicate with the Web site via respective Web clients (see, for example, PlanetRx, references online pharmacy, as in paragraph 1), the method comprising:

- a. displaying information about regulated goods offered for sale via the Web site (see, for example PlanetRx paragraph 1 for list of products displayed on web site);
- b. receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods (see, for example, at least PlanetRx, paragraph 13, concerning offers to purchase prescription drugs);
- b. verifying that the buyer is authorized to purchase the regulated goods by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods (see, for example, Soma, paragraph 10 and PlanetRx, paragraph 16, concerning prescriptions, faxing prescriptions by a doctor); and
- c. sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods (see, for example, PlanetRx paragraph 13 concerning deliver, which takes place after shipment).

As per claim 2, PlanetRx and Soma disclose verifying that the regulated goods offered for sale are legal for use within the buyer's location in response to verifying that the buyer is authorized to purchase the regulated goods (see, for example, Soma paragraph 10, references to shipping prescriptions to states where licensed).

As per claim 3, PlanetRx and Soma disclose initiating delivery of the regulated goods to the buyer in response to verifying that the buyer is authorized to purchase the

regulated goods (see, for example, PlanetRx paragraphs 13 and 24 concerning delivery of prescription medications).

As per claim 6, PlanetRx and Soma disclose that information listed about the regulated goods offered for sale comprises a designation of a time period within which offers to purchase the regulated goods at the sales price will be accepted. Prescriptions have expiration dates, which are the end point of the time period within which offers to purchase the regulated goods at a sale price will be accepted.

As per claim 7, PlanetRx and Soma disclose displaying information about the regulated goods offered for sale comprises displaying cost information for shipping the regulated goods to a buyer location (see, for example, PlanetRx references to paying \$10 for next-day delivery).

As per claim 9, PlanetRx and Soma disclose storing information about a sale of regulated goods to the buyer. See, for example, PlanetRx paragraph 16.

As per claim 10, PlanetRx and Soma disclose imposing restrictions as to where and from whom offers to purchase the regulated goods will be accepted. See, for example, Soma.com, paragraphs 1 and 5, concerning licensed pharmacies and licensed health care providers.

As per claim 12, PlanetRx and Soma disclose that initiating delivery of the regulated goods comprises initiating delivery of the regulated goods via a third party freight dispatcher in communication with the Web site. See references to next-day delivery, as in paragraph 13.

Claim 27 is rejected on the same grounds as claim 1.

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Claim 28 is rejected on the same grounds as claim 2.

Claim 29 is rejected on the same grounds as claim 3.

Claim 32 is rejected on the same grounds as claim 6.

Claim 33 is rejected on the same grounds as claim 7.

Claim 35 is rejected on the same grounds as claim 9.

Claim 36 is rejected on the same grounds as claim 10.

Claim 38 is rejected on the same grounds as claim 12.

Claim 53 is rejected on the same grounds as claim 1.

Claim 54 is rejected on the same grounds as claim 2.

Claim 55 is rejected on the same grounds as claim 3.

Claim 58 is rejected on the same grounds as claim 6.

Claim 59 is rejected on the same grounds as claim 7.

Claim 61 is rejected on the same grounds as claim 9.

Claim 62 is rejected on the same grounds as claim 10.

Claim 64 is rejected on the same grounds as claim 12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 30, 31, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma in view of Official Notice.

Official Notice is taken that it was well known at the time of applicant's invention to transfer funds from a financial account of the buyer to a financial account of the seller, such as by paying with a credit card and that the transfer payment includes a number of intermediaries, including third party financial institutions.

PlanetRx and Soma **do not** specifically disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller (claim 4) and that the step of initiating a transfer of funds comprises notifying a third party financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller (claim 5).

As per claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and common knowledge to disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller. One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and common knowledge to disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller for the obvious reason that such payments facilitate internet commerce.

As per claim 5, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and common knowledge to disclose that the step of initiating a transfer of funds comprises notifying a third party

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financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller. One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and common knowledge to disclose that the step of initiating a transfer of funds comprises notifying a third party financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller for the obvious reason that such payments facilitate internet commerce.

Claim 30 is rejected on the same grounds as claim 4.

Claim 31 is rejected on the same grounds as claim 5.

Claim 56 is rejected on the same grounds as claim 4.

Claim 57 is rejected on the same grounds as claim 5.

Claims 8, 34 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma and further in view **Edmonson** et al. (2004/0093340), filed 8 November 2002 and published on 13 May 2004.

As per claim 8, PlanetRx and Soma ***do not*** specifically disclose that the regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products. This feature is disclosed by Edmonson, as in paragraph 0015, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Edmonson to disclose that the

regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and Edmonson to disclose that the regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products for the obvious reason that having the information in a central place permits easier checking of various licenses and legal uses according to regulations for the goods.

Claim 34 is rejected on the same grounds as claim 8.

Claim 60 is rejected on the same grounds as claim 8.

Claims 11, 37, 63, 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma and further in view of Breen (6,598,027).

As per claim 11, PlanetRx and Soma disclose initiating delivery of the regulated goods to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods (see rejection of claim 3, above).

PlanetRx and Soma ***do not*** specifically disclose that initiating delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer. These features are disclosed by Breen, as in col. 2, lines 44-54 for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Breen to disclose that initiating delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRX, Soma and Breen to disclose that initiating delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer for the obvious reason that some buyers may wish to buy goods in bulk, or may wish to combine multiple purchases, which may lower their overall costs. A seller can provide lower costs than competitors by further providing the lowest shipping costs.

As per claim 80, PlanetRx and Soma ***do not*** specifically disclose that receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods

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comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

Breen discloses auctions (a type of sale) to buyers, and that receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Breen to disclose receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the

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highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and Breen to disclose receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods for the obvious reason that a seller may wish to get rid of large amounts of inventory may allow buyers to obtain lower prices for goods.

Claim 37 is rejected on the same grounds as claim 11.

Claim 63 is rejected on the same grounds as claim 11.

Claim 79 is rejected on the same grounds as claim 80.

Conclusion

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows.

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Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment. The number in the first column corresponds to the number written on each reference.

##	Claim	Materials	Basis for request	Found in
1	All	disclosures at meetings with potential investors	Web businesses such as XSAg, Icorn, Fielder's Choice Direct and ForTheFarm continue direct sales, and a few companies, such as Redball, have started new online ventures.	Pursuit of the e-deal, Mar 15, 2003 12:00 PM, by Kurt Lawton
2	Web site of a seller and its functions	From 1998 to 1 year prior to filing date of claimed materials first presented on 23 June 2003.	[Breen] presented his Internet business plan to lawyers at Hutchison & Mason in Raleigh in the fall of 1998 . They raised \$2.5 million from angel investors by December, allowing Breen to quit Rhone Poulenc to <i>work full time on XS</i> .	Dot-com helps farmers grow their businesses, Anonymous, Business, North Carolina v20n7 p 61, Jul 1, 2000
3	Web site of a seller and its functions	Seller website for regulated goods	...sell[-ing] laboratory chemicals and equipment online...	XS offering more online; [Final Edition], <u>DAVID RANII, News & Observer</u>, Raleigh, N.C.: Aug 3, 1999. pg. D.1
5	Claim 11	Reverse auction of freight services	Freightquote.com, a Lenexa Internet company that provides business-to-business freight and logistics services, announced a strategic alliance with XS Inc.	XSAg.com Selects freightquote.com to Provide Logistics Tools for Agricultural Marketplace <u>Business Editors/High-Tech Writers, Business Wire</u>, New York: Jan 2, 2002, 2 pages
6	All	Presentations, discussions, other materials prior to signing nondisclosure agreements, materials	"I can neither confirm nor deny," he said. 'The first time (XS received venture capital), I didn't know there were rules about this stuff. My lawyer beat me up pretty bad , so I can't talk about it." Beginning last January, with \$500,000 in seed money from a band of angel investors, the company went online as XSChem.com. Another \$2.5 million in venture money came XS's way during the summer, also from angels.	Web ag firm set to grow by \$20M, <u>Weisbecker, Lee, Triangle Business Journal</u>, Raleigh: Sep 24 1999, Vol.15,Iss.3;pg.1

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##	Claim	Materials	Basis for request	Found in
7	All	10 page document	The most reputable e-commerce sites publish business policies within easy reach of their home pages. XSAg.com, for example, rolls out a 10-page document detailing its business policies, user agreement and privacy statement just one click away from its home page.	How secure is online buying? <u>Karen McMahon, Farm Industry News</u> , Minneapolis: Apr 2000, Vol.33,Iss.7; 4 pages
8	Web site of a seller and its functions	Seller web site	Live since January [1999], XS sells agricultural chemicals over its Internet site XSAg.com, taking the role of middleman between seller and buyer by facilitating payment and shipping. Just last week, the 22-employee company added seed to its inventory, and plans to add fertilizers, veterinary products, livestock and farm equipment.	XS trying to become tip-of-tongue name; [Final Edition], CARLENE HEMPEL. News & Observer. Raleigh, N.C.: Sep 21, 1999, 1 page.
9	Claim 80	XS and auction		Start-up founders see Internet auction hit in XS; [Final Edition], DAVID RANIL, News & Observer, Raleigh, NC, Jan 19, 1999, 1 page
10		Public disclosures, including presentations and other materials such as in Venture 1999, 2000, etc.	Cary—XS Inc., a developer of an online auction site for agricultural chemicals, closed on \$500,000 in first-round financing from private investors in January 1999. Contact: Fulton Breen	Venture Update Vol III, #2, February, 1999 http://www.cednc.org/resources/venture_update/volume_3_1999/feb_n2.html 4 pages, Downloaded from the internet on 11 september 2006
11			Ten to 20 percent savings are common according to <u>XSAg.com</u> , based in Morrisville, NC. And, some users report substantially higher savings... Milan, Ill., corn and soybean producer Brian Parkinson, an XSAg.com customer for 6-7 years, uses site to purchase generic Roundup (glyphosate) and some Balance at a substantial savings. XSAg.com. XSAg.com offers a secure website to buy and sell agricultural chemicals, and has done so since 1998.	SedQuest News Section, Morrisville, North Carolina February 9, 2006, downloaded from the Internet on 11 September 2006 from http://www.seedquest.com/News/releases/2006/february/14821.htm , 1 page

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##	Claim	Materials	Basis for request	Found in
12			XSAG.com founded in November 1998	Enabled Ag: Out Standing in its Field By Cindy Waxer, http://canada.eharvest.com/pr/iSource%20Online%20-%20Article.htm , March 2001, 8 pages.
13	Web site of a seller and its functions	XSAG White Paper: the neutral trading exchange in agricultural B2B		Found on xsinc.com site, last update 29 February 2000, page 1 of screen document.
14	Web site of a seller and its functions	User agreements, description of business practice	User agreement and policies in effect on 9 September 1999, as in Fig. B.	Fig. 14B, for example
15	all		Systems description documents for beta1 (Fig. 15C), beta2 and other versions of web sites www.xschem.com , www.xsag.com , www.xsag.net , www.xsinc.com .	The request is based on materials found on www.archive.org . see attached screens document

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
11 September 2006

James Zurita
Primary Examiner